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UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEVADA

In re:) Case No. 15-13475-ABL
)
Erick Allan Lindgren,) Chapter 11
)
Debtor.) Interim Hearing Date: OST Pending
) Interim Hearing Time: OST Pending
)

**DEBTOR'S MOTION PURSUANT TO 11 U.S.C. §§ 105, 361, 362, 363
AND 506, AND RULE 4001(b) OF THE FEDERAL RULES OF
BANKRUPTCY PROCEDURE FOR THE ENTRY OF AN ORDER
AUTHORIZING THE USE OF CASH, INCLUDING CASH COLLATERAL**

The above captioned debtor and debtor-in-possession in the above captioned matter (the “Debtor”), files this motion (the “Motion”) pursuant to sections 105, 361, 362, 363, and 506 of title 11 of the United States Code (as amended, the “Bankruptcy Code”) and Rule 4001(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) for the entry of an order (i) authorizing the Debtors’ use of cash, which may comprise cash collateral, and (ii) granting related relief. In support of the Motion, the Debtor represents as follows:

Jurisdiction

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2).

2. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

3. On June 16, 2015 (the “**Petition Date**”), the Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code.

4. The Debtor continues to operate his business and manage his property as a debtor-in-possession. No creditors committee has been appointed in these cases by the United States Trustee.

5. The Debtor is a professional poker player residing in Las Vegas, Nevada. Specifically, a quick internet search reveals that the Debtor has won \$10,203,245 in career earnings, is ranked 19th on the United States all time money list for poker winnings, is ranked 5th on the Nevada all time money list for poker winnings, and is ranked as the 79th best poker player in the world.

6. The Debtor often plays in poker tournaments at the Rio All Suites Hotel and Casino in Las Vegas, Nevada (the “**Rio**”), including the upcoming World Series of Poker. Prior to the Petition Date, however, the Rio did not turn over certain poker winnings to the Debtor due to pending garnishments against him.

7. The Debtor does not believe he has any secured creditors who may claim a security interest in his cash, including cash collateral, but files this Motion to obtain court authority to use his cash, including any cash collateral, in accordance with the Debtor’s proposed budget (the “**Budget**”), attached hereto as **Exhibit A**.

Relief Requested

8. The Debtor seeks entry of an order (i) authorizing the Debtor’s use of cash and revenues, whether or not such assets constitute Cash Collateral, and (ii) granting related relief. Specifically, the Debtor proposes that the Court authorize the use of cash collateral in

accordance with the proposed Order, attached hereto as **Exhibit B**, which, in summary, provides for the following:

- The Debtor may use cash, including any cash collateral, in accordance with the Budget, provided, that for any expenditure line item provided in the Budget in any given month, the Debtor may use cash collateral in excess of such amount set forth in the Budget, so long as the percentage of deviation for all expenditures during such month shall not exceed 15%, in the aggregate, of the total amount set forth in the Budget for all expenditures.
- The Budget provides for the payment of (i) post-petition operating expenses and expenses of administering the Chapter 11 Case including, mainly, costs and expenses necessary to maintain and operate the Debtor's business and other expenses in respect of the Debtors' day-to-day lives, (ii) the Debtor's accrued and unpaid costs, fees and expenses incurred by the Debtor's retained professionals with respect to the administration of the Chapter 11 Case and (iii) any unpaid fees due and payable to the Clerk of the Court and the United States Trustee pursuant to 28 U.S.C. § 1930 (the "**Carve-Out**");

Basis for Relief

The Proposed Use of Cash Collateral Is Appropriate and Should Be Authorized

9. The Court should authorize the Debtor to use his cash, including any cash collateral, whether such cash collateral exists as of the Petition Date or arises thereafter. It is essential to the continued operation of the Debtor's personal life, and the maintenance of his business, that the Debtor obtains authority to use cash, for payment of estate taxes, insurance premiums, utilities, living expenses and to fund the cost of administering his Chapter 11 Case. The Debtor will maintain a detailed accounting of all expenses funded by his cash, including any cash collateral, generated by him through the filing of his monthly operating reports.

10. If the Debtor is permitted to use his cash, including any cash collateral, to fund ongoing business and living expenses, and administration of these Chapter 11 cases, the Debtor currently projects that ordinary and anticipated cash flows will be able to cover expenses for

the foreseeable immediate future. In fact, on June 5, 2015, the Debtor placed seventh in a poker tournament at the Rio and expects to receive approximately \$193,000 any day. Thus, the Debtor can continue to run their life successfully, but only if he is allowed to use his cash, including cash collateral (if any), in the course of his day-to-day living and to fund the administration of his Chapter 11 case. Without such use, the detrimental result to the estate will be rapid and likely disastrous.

11. Section 363(c)(2) of the Bankruptcy Code sets forth the requirements for a debtor's proposed use of cash collateral, and provides, in pertinent part that:

[t]he trustee [or debtor in possession] may not use, sell, or lease cash collateral ... unless – (A) each entity that has an interest in such cash collateral consents; or (B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

¹
11 U.S.C. § 363(c)(2).

12. Section 105(a) of the Bankruptcy Code also allows that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy Code].” 11 U.S.C. § 105(a). The Debtor respectfully submits that the proposed use of cash, including any cash collateral, is necessary to preserve the Debtor's personal life during these Chapter 11 cases, and will avoid immediate and irreparable harm to the Debtor's estate and creditors. Such use prejudices no one; it affirmatively and directly

¹ Section 363(a) of the Bankruptcy Code defines “cash collateral” as:

[C]ash, negotiable instruments, documents of title, securities, deposit accounts, or other cash equivalents whenever acquired in which the estate and an entity other than the estate have an interest and includes the proceeds, products, offspring, rents, or profits of property . . . subject to a security interest as provided in section 552(b) of this title, whether existing before or after the commencement of a case under this title[.]

11 U.S.C. § 363(a).

1 benefits the estate and creditors by enhancing the prospects of a successful outcome of this
2 Chapter 11 case.

3 13. Additionally, section 363(e) of the Bankruptcy Code provides that “on request
4 of an entity that has an interest in property . . . proposed to be used, sold, or leased, by the
5 trustee [or debtor in possession], the court, with or without a hearing, shall prohibit or
6 condition such use, sale, or lease as is necessary to provide adequate protection of such
7 interest.” 11 U.S.C. § 363(e). Examples of adequate protection are provided in section 361 of
8 the Bankruptcy Code and include, but are not limited to: (1) “periodic cash payments” to the
9 extent that such use “results in a decrease in value of such entity’s interest in the property;” (2)
10 “additional or replacement lien[s] to the extent that the use [of cash collateral] will cause a
11 decrease in the value of such entity’s interest in the property;” and (3) “granting such other
12 relief . . . as results in the realization by the entity of the indubitable equivalent of such entity’s
13 interest in the property.” 11 U.S.C. § 361. Here, the Debtor submits that his only secured
14 creditors are the lenders holding first priority liens on his vehicles, all of which have equity
15 cushions. Those secured creditors are current post-petition, and the Debtor intends to maintain
16 those payments. The Debtor submits there are no other secured creditors to protect.

17 14. Moreover, the relief requested in this Motion is appropriate under section 105(a)
18 of the Bankruptcy Code, which provides that “[t]he court may issue any order, process, or
19 judgment that is necessary or appropriate to carry out the provisions of [the Bankruptcy
20 Code].” 11 U.S.C. § 105(a).

21 Notice

22 15. The Debtors will provide notice of this Application by regular mail and, when
23 possible, electronic mail or facsimile to: (a) the U.S. Trustee; (b) the entities listed on the List
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1 of Creditors Holding the 20 Largest Unsecured Claims; and (c) certain governmental agencies
2 including the Internal Revenue Service, the United States Attorney's Office, the Clark County
3 Assessor, the Clark County Treasurer and the Nevada Department of Taxation. In light of the
4 nature of the relief requested, the Debtors submit that no further notice is required.

5 16. No previous motion for the relief sought herein has been made to this or any
6 other court.
7

8 WHEREFORE, the Debtor respectfully requests entry of an order granting the relief
9 requested herein, including: (i) authorizing the Debtor's use of cash, including any cash
10 collateral, pursuant to the terms of the Order; and (ii) granting the Debtor such other relief as
11 the Court deems just and proper.
12

13 Dated this 24th day of June, 2015.

14 Respectfully Submitted,

15 /s/ Samuel A. Schwartz, Esq.

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25 Proposed Attorneys for the Debtors
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent electronically via the Court's CM/ECF system on June 24, 2015, to the following:

U.S. TRUSTEE - LV - 11 USTPRegion17.lv.ecf@usdoj.gov

ROBERT R. KINAS on behalf of Creditor RATIONAL FT ENTERPRISES LIMITED
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ni@swlaw.com;nkanute@swlaw.com;jvelarde@swlaw.com

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via Regular U.S. Postal Mail on June 24, 2015 to the following:

Internal Revenue Service	State of Nevada Dept. of Motor Vehicles
P.O. Box 7346	Attn: Legal Division
Philadelphia, PA 19101-7346	555 Wright Way
	Carson City, NV 89711

Clark County Treasurer	Ally Financial
c/o Bankruptcy Clerk	200 Renaissance Center
500 S Grand Central Parkway	Detroit, MI 48243
PO Box 551220	
Las Vegas, NV 89155-1220	

Clark County Assessor	Ally Financial
c/o Bankruptcy Clerk	P.O. Box 951
500 S Grand Central Pkwy	Horsham, PA 19044

Box 551401	Amaya Gaming
Las Vegas, NV 89155-1401	c/o Ifrah Law, PLLC
	1717 Pennsylvania Ave. NW
	Washington, DC 20006

Dept of Employment, Training and Rehab	
Employment Security Division	
500 East Third Street	Andy Bloch
Carson City, NV 89713	64 Promontory Ridge
	Las Vegas, NV 89135

United States Trustee	
300 Las Vegas Blvd. South #4300	Bill Elder
Las Vegas, NV 89101	2015 Lookout Point Circle
	Las Vegas, NV 89117

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19 /s/ Janine Lee
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